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9 BEFORE THE
PHYSICAL THERAPY BOARD
10 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against: Case No. 1D-2002-62961

12 **JASON LEE MARVIN**
13 2621 Lycoming Drive
Sacramento, CA 95826

A C C U S A T I O N

14 Physical Therapy License No. PT-25977,
15 Respondent.
16 _____

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18 Complainant alleges:

19 PARTIES

20 1. Steven K. Hartzell ("Complainant") brings this Accusation solely in his
21 official capacity as the Executive Officer of the Physical Therapy Board of California, Department
22 of Consumer Affairs.

23 2. On or about February 21, 2001, the Physical Therapy Board issued Physical
24 Therapy License Number PT 25977 to Jason Lee Marvin ("Respondent"). The Physical Therapy
25 License was in full force and effect at all times relevant to the charges brought herein.

26 JURISDICTION
27

1 3. This Accusation is brought before the Physical Therapy Board ("Board"),
2 under the authority of the following sections of the Business and Professions Code ("Code").



3 4. Section 2660 of the Code states:

4 The board may, after the conduct of appropriate proceedings by the
5 examining committee under the Administrative Procedure Act, suspend for not more
6 than 12 months, or revoke, or impose probationary conditions upon, or issue subject to terms
and conditions any license, certificate, or approval issued under this chapter for any of the
following causes:

7 (a) Advertising in violation of section 17500 of the Business and
Professions Code.

8 (b) Fraud in the procurement of any license under this chapter.

9 (c) Procuring or aiding or offering to procure or aid in criminal abortion.

10 (d) Conviction of a crime which substantially relates to the qualifications,
11 functions, or duties of a physical therapist. The record of conviction or a certified
copy thereof shall be conclusive evidence of such conviction.

12 (e) Impersonating or acting as a proxy for an applicant in any
13 examination given under this chapter.

14 (f) Habitual intemperance.

15 (g) Addiction to the excessive use of any habit-forming drug.

16 (h) Gross negligence in his or her practice as a physical therapist.

17 (i) Conviction of a violation of any of the provisions of this chapter or of
18 the State Medical Practice Act, or violating, or attempting to violate, directly or
indirectly, or assisting in or abetting the violating of, or conspiring to violate any
provision or term of this chapter or of the State Medical Practice Act.

19 5. Section 2620.7 of the Code states that:

20 (a) A physical therapist shall document his or her
21 evaluation, goals, treatment plan, and summary of treatment in the
patient record.

22 (b) A physical therapist shall document the care actually
23 provided to a patient in the patient record.

24 (c) A physical therapist shall sign the patient record
legibly.

25 (d) Patient records shall be maintained for a period of no
26 less than seven years following the discharge of the patient, except
that the records of unemancipated minors shall be maintained at least
one year after the minor has reached the age of 18 years, and not in

any case less than seven years.

....

(j) The aiding or abetting of any person to violate this chapter or any regulations duly adopted under this chapter.

(k) The aiding or abetting of any person to engage in the unlawful practice of physical therapy.

(l) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a physical therapist or physical therapist assistant.

6.  Section 2661.5 of the Code states in relevant part that:

(a) In any order issued in resolution of a disciplinary proceeding before the board, the board may request the administrative law judge to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of investigation and prosecution of the case.

7. Section 725 of the Code states in relevant part that:

Repeated acts of clearly excessive prescribing or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, or optometrist.



FIRST CAUSE FOR DISCIPLINE
(Excessive Prescribing of Physical Therapy Treatment)
[Bus & Prof Code ' ' 725, 2660]

8. Respondent Marvin is subject to disciplinary action under sections 725 and 2660 of the Code for excessive prescribing of physical therapy treatment and gross negligence based on the following facts:

Patient L.A.

(1) Patient L.A. was referred for physical therapy treatment to Kinections Sports Medicine and Physical Therapy, Inc., in Sacramento on March 15, 2000.

(2) L.A. was first seen by Mary Beth Kiefer for an initial evaluation and treatment. Goals were set, and L.A. had three different physical therapists provide treatment while a patient at Kinections.

1 (3) L.A. was seen for treatment by Mary Beth Kiefer from March 15,
2 2000 to January 9, 2001; David Hartwig then provided treatment for L.A. from January 16, 2001 to
3 May 21, 2001; and Respondent Marvin provided treatment from June 18, 2001 to at least July 23,
4 2001.

5 (4) From March 15, 2000, L.A. was seen for 15 visits until the first
6 progress note on April 26, 2000. Respondent noted reported improvement of at least 40%. No
7 objective measurements were included to gauge progress.

8 (5) Approximately two months and 16 visits later, a progress note on June
9 13, 2000, indicates that patient L.A. was improving, yet it does not include any objective, reasonable
10 indication of improvement.

11 (6) On January 16, 2001, respondent indicates that patient L.A. reports an
12 improvement of 40%.

13 (7) Respondent=s treatment records for L.A. indicate that respondent
14 prescribed a home exercise program on several occasions, but no detail is provided regarding
15 frequency of exercise or L.A.=s response to the exercise program.

16 (8) L.A. was seen by respondent and the other physical therapists at
17 Kinections at least through July 23, 2001, at which point the patient had made a total of 96 visits for
18 physical therapy.

19 (9) L.A. was treated by physical therapy assistants and physical therapy
20 aides at Kinections without adequate supervision by any of the physical therapists in charge of her
21 treatment.

22 **SECOND CAUSE FOR DISCIPLINE**
(Excessive Prescribing of Physical Therapy Treatments)
23 [Bus. & Prof. Code ' ' 725, 2660]

24 9. Respondent Kiefer is subject to disciplinary action under sections 725 and
25 2660 of the Code for excessive prescribing of physical therapy services on based on the following
26 facts:

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Patient D.C.

(1) Patient D.C. was referred for physical therapy treatment to Kinections Sports Medicine and Physical Therapy, Inc., on April 21, 1999. Four different physical therapists provided treatment for D.C. through September 25, 2001 for a total of 120 visits for physical therapy: Mary Beth Kiefer provided physical therapy treatment to D.C. from April 21, 1999 to December 27, 2000, then again for one visit on January 12, 2001; David Hartwig took over treatment for D.C. from January 9, 2001 to May 29, 2001; Respondent Marvin took over treatment of D.C. from June 4, 2001 to August 29, 2001; and Mitsumaro Motoyoshi took over treatment of D.C. on September 21, 2001.

Respondent=s treatment of D.C. constitutes excessive prescribing of physical therapy in violation of section 725 of the Code.

Respondent=s treatment of D.C. constitutes gross negligence in failing to adequately supervise physical therapy assistants in violation of section 2660 of the Code.

(2) Respondent failed to document any objective medications of progress by patient D.C.

(3) Respondent failed to implement a home exercise program for D.C. and failed to document progress or implementation of other treatment modalities.

THIRD CAUSE FOR DISCIPLINE
(Gross Negligent and Aiding and Abetting)
[Bus. & Prof. Code ' ' 2660(h), (j), (k)]

10. Complainant realleges paragraphs 8 through 9 above as if fully set forth at this point.

(1) Respondent supervised physical therapy assistants and aides in the treatment of patients L.A. and D.C. without providing adequate supervision in violation of sections 2660(h) (j) and (k), which constitutes gross negligence and aiding and abetting the unlawful practice of physical therapy.

FOURTH CAUSE FOR DISCIPLINE
(Gross Negligence and Inadequate Record Keeping)
[Bus. & Prof. Code ' ' 2660(h) and 2620.7]

11. Complainant realleges paragraphs 8 through 10 above as if fully set forth at this point.

(1) Respondent failed to produce and maintain adequate documentation of the physical therapy treatments provided to patients L.A. and D.C. in violation of section 2660(h) of the Code which constitutes gross negligence, and section 2620.7 of the Code, failure to maintain adequate patient records.

PRA YER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board issue a decision:

1. Revoking or suspending Physical Therapy Number PT-25977, issued to Jason Lee Marvin;.

2. Ordering Jason Lee Marvin to pay the Physical Therapy Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.5;

3. Taking such other and further action as deemed necessary and proper.

DATED: 11/19/03.

Original Signed By:
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant